

Application No.: 10/695,271
Response to Office Action of April 6, 2005
Attorney Docket: TGEDE-007A

Amendments to the Drawings:

Please cancel the drawing sheet containing Figure 20.

The presently submitted drawings have been amended so as to put the reference characters in solid black ink. Also, reference characters 52, 58, and 72 have been removed since they are not present in the detailed description.

REMARKS

The foregoing amendment and remarks which follow are responsive to the non-final Office Action mailed April 6, 2005 in relation to the above-identified patent application. In the Office Action, the Examiner acknowledged Applicant's election of Group I, claims 1-7 and 13-16, and Species III, Figures 5-7. Further, the Examiner acknowledged Applicant's belief that claims 1, 2, 4, 6-7, and 13-16 read on Species III. The Examiner agreed with this except as to claims 6-7 and 14-16, citing that Figures 5-7 lacked a ratchet mechanism. According to the Office Action, the drawings were objected to under 37 CFR 1.84(h)(5) because Figure 20 shows modified forms of construction and, therefore, each form should be labeled separately. The specification was also objected to for failing to comply with 37 CFR 1.84(p)(5) for having reference characters present in the drawings which are not mentioned in the detailed description. Also in the Office Action, the Examiner rejected Claims 1-2, 4, and 13 under 35 U.S.C. § 102(b) as being anticipated by Pierson (i.e., WO 00/13601). No other issues were presented.

Applicant agrees that Figures 5-7 lack a ratchet mechanism. Claims 6-7 and 15-16 have been amended herein so as to not require a ratchet mechanism. Applicant respectfully submits that these Claims now fall within Species III and, therefore, are in a condition to be substantially examined.

In order to cure the objection to the drawings, Figure 20 has been cancelled from the application as being drawn to a non-elected species. In this regard, paragraphs 0045 and 0077 have been deleted from the specification as they referred to Figure 20. Also, reference characters 52, 58, and 72 have been removed from the drawings as they were not mentioned in the detailed description.

With respect to the substantive rejection of the claims in view of the prior art, Applicant respectfully submits that the present invention has been differentiated from the cited prior art. In this respect, the Pierson reference does not teach or suggest the present invention, that is, a bone anchor having an adjustment mechanism for selectively controlling the tension of sutures.

The bone anchor of the Pierson reference is drawn to a system for providing dynamic tensioning to maintain a high level of tension despite an inadvertent loss of tension. The Pierson bone anchor has a biasing mechanism that automatically takes up any slack and maintains a particular tension in a suture. See, e.g., Summary of the Invention. On the other hand, the device of the present invention has a selective tension adjustment mechanism. This selective mechanism allows for the tension to be adjusted by a treating physician as needed, either at the time of implantation or post-implantation. This mechanism, while allowing for an increase in tension also allows for a decrease in tension, something that is not possible with the Pierson anchor. Therefore, the tension of sutures can be adjusted by the treating physician without the need to remove and re-implant the anchor, as would be required by the Pierson anchor.

The dependent claims, which have been amended so as to not require a ratchet mechanism, are believed to provide further differentiation from the prior art. For example, Claim 15 is drawn to a bone anchor having a protective covering positionable about the adjustment mechanism. This protective covering is functional to protect the adjustment mechanism while also being operative to maintain the adjustment mechanism in a static position until manipulated by a treating physician. The Pierson reference does not disclose or even suggest a protective covering to maintain the adjustment mechanism in a static position as this would prevent the functioning of Pierson's automatic dynamic tension adjustment mechanism. Also, Claim 16 is drawn to a bone anchor having a spool portion operative to capture and hold a suture segment coiled thereabout. There is no suggestion in the Pierson reference as to the addition of a spool portion to the bone anchor. The spool portion is used in the present invention both as an anchor mechanism for a suture as well as a way to selectively adjust the tension of the suture by wrapping the suture around such spool portion. This selective adjustment is achieved by the treating physician manipulating the adjustment mechanism. This spool portion would eliminate the functionality of the Pierson anchor since the Pierson anchor is directed toward an automatic dynamic system for maintaining suture tension.

Based on the foregoing, Applicant respectfully submits that the claims, as amended herein, are now in condition for immediate allowance. Early notice to that effect is


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respectfully requested. To the extent the Examiner has any questions, requires additional information, or has any suggestions to resolve any outstanding issues that may exist, the Examiner is invited to contact Applicant's counsel at the number listed below.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: 8/3/05

By: 

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